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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/538,207

06/09/2005

Declan P Kelly

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01/23/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

NGUYEN, MY XUAN

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

01/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/538,207	<b>Applicant(s)</b> KELLY ET AL.	
	<b>Examiner</b> My X. Nguyen	<b>Art Unit</b> 2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. In view of the appeal brief filed on 11/05/2007, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.


To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

M.X.N.  
01/15/2008.

  
Rafael Perez-Gutierrez  
Supervisory Patent Examiner  
Technology Center 2600  
Art Unit 2617  
1/17/08

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-32 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication 2002/0156909 A1 (Harrington).

Regarding claims 1, 7, 15, 16, 26 and 28, Harrington discloses the claimed:

a portable wireless device (i.e., client device, Fig. 8 Element 806, ¶s [0016] & [0034]), the wireless device having a media drive (i.e., Flash movie may be loaded from a CD-Rom, a floppy disk, or from any memory element connected to the client device, ¶s [0014], [0043] & [0059], it should be noted a variety of memory elements are listed in ¶ [0014] including CD-ROM, DVD, CD, or memory stick) and an application (i.e., Flash player, ¶s [0020] & [0034]) that reads and plays back content from a medium inserted in the media drive (¶s [0014], [0043] & [0059]);

a service that communicates with the wireless device (i.e., client device, Fig. 1 Element 112) via a wireless network (i.e., network, Fig. 1 Element 120), the service providing control commands to the application program for controlling playback of content from the medium (i.e., server-side control of a Flash movie playing on a client

device, ¶ [0015]) when inserted in the media drive (i.e., Flash movie may be loaded from a CD-Rom, a floppy disk, or from any memory element connected to the client device, ¶s [0014], [0043] & [0059]).

Regarding claim 2, Harrington discloses the claimed wireless device is a mobile phone (i.e., wireless telephone, ¶ [0042]).

Regarding claims 3, 8 and 27, Harrington discloses the claimed media drive is one selected from the group of optical disc drive, magnetic disc drive and a flash memory card interface (i.e., Flash movie may be loaded from a CD-Rom, a floppy disk, or from any memory element connected to the client device, ¶s [0014], [0043] & [0059]).

Regarding claims 4 and 17, Harrington discloses the claimed service is provided from a website that interfaces with the wireless network via the Internet (¶ [0014]).

Regarding claims 5, 10, 19, 22 and 29, Harrington discloses the claimed control commands provided by the service control at least one of the selection and order of content played back (i.e., server-side control of a Flash movie playing on a client device, ¶ [0015]) from the medium (i.e., Flash movie may be loaded from a CD-Rom, a floppy disk, or from any memory element connected to the client device, ¶s [0014], [0043] & [0059]).

Regarding claims 6, 11-14, 23, 31 and 32, Harrington discloses the claimed service downloads advertisements to the wireless device and also provides control commands to the application to play the advertisements along with the playback of content from the medium (i.e., advertising is created and delivered in a targeted and individualized manner and allows customers to make more informed choices and spontaneous choices, ¶ [0017]).

Regarding claim 9, Harrington discloses the claimed medium contains at least one of audio content and video content (i.e., Flash movies, ¶ [0043]).

Regarding claims 18 and 30, Harrington discloses the claimed control commands are generated using an identification of the content of the medium received by the services from the portable wireless device (i.e., playlist timeline and associated commands are related to a programming signal in order to synchronize the Flash movie on a client device with the programming signal, ¶ [0053]).

Regarding claims 20, 21, 24 and 25, Harrington discloses the claimed control commands are generated using an identification of the user received by the service from the portable wireless device (i.e., a user may *subscribe* to a stock-ticker data feed, ¶ [0071]).

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection. It should be noted though claims 1-32 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication 2002/0156909 A1 (Harrington), as was the claims were rejected with respect to the Final Office Action mailed 06/04/2007, the rejection refers to additional portions and embodiments of Harrington previously never discussed, therefore claims 1-32 are being rejected on new grounds.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to My X. Nguyen whose telephone number is (571) 272-2835. The examiner can normally be reached on Monday through Friday at 8:00AM to 4:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rafael Perez-Gutierrez can be reached on (571) 272-7915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.X.N.  
01/15/2008

  
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